FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.1189 OF 2004

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.S.S.Pakale for petitioners.

CORAM : H.L GOKHALE &
J.H.BHATIA, JJ.

DATED : 3rd July 2006

P.C. :

1. Heard Mr.Pakale in support of this petition.

2. This petition filed by the Union of India seeks to challenge the order dated 26th September 2003 in O.A.No.236 of 2002 and O.A. No.399 of 2002 filed by the respondents herein.

3. The respondents were claiming to be considered for the post of Inspector in the Excise Department. They had put in five years as Grade-III Stenographer and thereafter they were in

Grade-II. The relevant rule required the persons concerned to have put in either five years in Grade-III or two years in Grade-II. The submission of the Central Government was that the respondents ought to have put in two years after being placed in Grade-II. That does not appear to be the requirement under the rule. Inasmuch as the respondents had already put in five years as Grade-III Stenographer, they had become eligible to be considered for the post of Inspector. That is the clear finding of the Tribunal in para-15 of the impugned order. It is another matter that in the meanwhile they were promoted to Grade-II. That cannot deny them their eligibility for being considered for the post of Inspector which eligibility they had already attained. The Tribunal was, therefore, right in allowing the application filed by

the respondents. That was also the clarification given by the Under Secretary, Central Board of Excise and Customs on 7th March 1989.

4. Mr.Pakale fairly informs that the respondents have been since promoted to the posts of Inspectors. No reason to interfere with the impugned order. Petition dismissed.

(H.L.GOKHALE, J.)

(J.H.BHATIA, J.)